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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHARLOTTE BOSWELL,
Plaintiff,
v.
FEDEX CORPORATION,
Defendant.

No. C 04-0098 SI
Related Case C 04-0099 SI

We, the jury in the above entitled action, find the following for our special verdict:

(1) SEXUALLY HOSTILE WORK ENVIRONMENT

17 **Question No. 1:** Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that
18 Norman Stites was her supervisor and that he subjected her to a sexually hostile work environment at
19 FedEx, as defined in these instructions?

20 Yes _____ No _____

21 If the answer to Question No. 1 is “no,” please proceed directly to Question No. 6. If the answer to Question No. 1 is “yes,” please proceed to Question No. 2.

23 **Question No. 2:** Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that as a
24 result of sexual harassment by Norman Stites, she suffered a tangible employment action, as defined in
25 these instructions?

26 Yes No

If the answer to Question No. 2 is “no,” please proceed to Question No. 3 . If the answer to Question No.2 is “yes,” please proceed directly to Question No. 5.

1 **Question No. 3:** Did defendant FedEx prove, by a preponderance of the evidence, that FedEx exercised
2 reasonable care to prevent and promptly correct the sexually harassing behavior?
3

4 Yes _____ No _____
5

If the answer to Question No. 3 is "no," please proceed directly to Question No. 5. If the answer to
5 Question No. 3 is "yes," please proceed to Question No. 4.
6

7 **Question No. 4:** Did defendant FedEx prove, by a preponderance of the evidence, that plaintiff
8 unreasonably failed to take advantage of any preventive or corrective opportunities provided by Fed Ex
9 or unreasonably failed to otherwise avoid harm?
10

11 Yes _____ No _____
12

13 If the answer to Question No. 4 is "no," please proceed to Question No. 5. If the answer to Question
14 No. 4 is "yes," please proceed to Question No. 6.
15

16 **(2) CONSTRUCTIVE DISCHARGE** 17

18 **Question No. 5:** Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that her
19 working conditions were made so intolerable by the sexually hostile work environment that a reasonable
20 person in plaintiff's position would feel compelled to resign?
21

22 Yes _____ No _____
23

24 Please proceed to Question No. 6.
25

26 **(3) RETALIATION** 27

28 **Question No. 6:** Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that she
29 engaged in activities protected under federal law, such as objecting to sexual advances, requests for
30 sexual conduct or other verbal or physical conduct of a sexual nature?
31

32 Yes _____ No _____
33

34 If the answer to Question No. 6 is "no," please go directly to Question No. 9. If the answer to Question
35 No. 6 is "yes," please proceed to Question No. 7.
36

1 **Question No. 7:** Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that
2 defendant FedEx subjected plaintiff to an adverse employment action, as defined in these instructions?

3 Yes _____ No _____

4 If the answer to Question No. 7 is "no," please go directly to Question No. 9 . If the answer to Question
5 No. 7 is "yes," please proceed to Question No. 8.

6 **Question No. 8:** Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that her
7 protected activity was a substantial or motivating factor in causing defendant FedEx to take the adverse
8 employment action?

9 Yes _____ No _____

10 Please go to Question No. 9.

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13 **Question No. 9:** [If you answered Question No. 1 "no" and you answered either Question No. 6 or
14 No. 7 or No. 8 "no," do not answer this question or any further questions; instead, go directly to
15 the end of this form, sign and date it where indicated. Likewise, if you answered both Questions
16 No. 3 and No. 4 "yes" and you answered either Question No. 6 or No. 7 or No. 8 "no," do not
17 answer this question or any further questions; instead, go directly to the end of this form, sign and
18 date it where indicated Otherwise, please answer the next questions] What amount of damages, if
19 any, did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, was caused to her by
20 FedEx's actions?

21 \$ _____.

22
23 **Question No. 10:** Did plaintiff Charlotte Boswell prove, by a preponderance of the evidence, that
24 defendant FedEx's conduct toward her were malicious, oppressive or in reckless disregard of her rights,
25 as those terms are defined in these instructions?

26 Yes _____ No _____

27 If your answer to Question No. 10 was "no," do not answer the next question; instead, go directly to the
28 end of this form, sign and date it where indicated. Otherwise, please answer the next question.

1 **Question No. 11:** What amount of punitive damages, if any, did plaintiff Charlotte Boswell prove, by
2 a preponderance of the evidence, should be awarded in this case?

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6 Dated: _____

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 FOREPERSON

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